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BY ECF

September 13, 2023

Hon. Lorna G. Schofield, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 22-cv-01243 (LGS)
Sport-BLX, Inc. v. Salerno, et al., Docket No. 22-cv-08111 (LGS)**

Dear Judge Schofield,

This firm represents Plaintiff Cypress Holdings, III, L.P. (“Cypress”) in the action entitled *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 22-cv-01243 (LGS) (the “Cypress Action”). This firm also represents Defendants Michael M. Salerno (“Mr. Salerno”) and Cypress (collectively, the “Cypress Parties”) in the related action entitled *Sport-BLX, Inc. v. Salerno, et al.*, Docket No. 22-cv-08111 (LGS) (the “Sport-BLX Action”) (collectively, with the Cypress Action, the “Actions”).

On July 17, 2023, Your Honor entered a Civil Case Management Plan and Scheduling Order (the “Third Amended Scheduling Order”) requiring that all expert discovery be completed by September 11, 2023. (Cypress Docket, ECF No. 120). The Third Amended Scheduling order also set September 27, 2023, at 4:20 p.m. as the date of the parties’ pre-motion conference for any anticipated dispositive motions. *Id.* Finally, the Third Amended Scheduling Order requires that any party wishing to submit a dispositive motion must file a pre-motion letter by September 13, 2023 (at least two weeks before the pre-motion conference). *Id.*

Pursuant to Federal Rules of Civil Procedure 16 and 26, the Cypress Parties, with the consent of all parties, write to request an extension of the expert discovery deadline, to October 4, 2023. As explained below, all parties to the Actions have proceeded diligently and expeditiously with respect to expert discovery. All parties have exchanged expert reports and rebuttal reports, and all expert depositions have been scheduled and confirmed by counsel. On August 30, 2023, the Cypress Parties served a subpoena for both documents and the testimony of the Sport-BLX Parties’ expert witness, Gene B. Phillips. The deposition of Mr. Phillips was scheduled for, and completed on September 12, 2023. On September 8, 2023, the Sport-BLX Parties served a subpoena for both documents and the testimony of the Cypress’ Parties expert rebuttal witness, Marcie M. Bour. Ms. Bour’s deposition has been confirmed by all counsel to proceed on September 28, 2023. For the foregoing reasons, the

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Cypress Parties request Your Honor extend the deadline to complete expert discovery to October 4, 2023.

Also pursuant to Federal Rule of Civil Procedure 16, the Cypress Parties also request an adjournment of the pre-motion conference and extension of the pre-motion letter deadlines, each by two weeks. All parties have consented to the extension and proposed new dates. The Cypress Parties have yet to receive discovery in response to a non-party Subpoena to Greenberg Traurig (“GT”) served on July 26, 2023, despite agreeing to search terms as early as August 1, 2023. GT has advised the Cypress Parties that the search terms yielded approximately 1,650 documents which it has not yet reviewed in full as of September 5, 2023. The Cypress Parties believe the documents produced in response to the Subpoena are directly relevant to issues the Cypress Parties will address in any pre-motion letter regarding dispositive motions. For that reason, the Cypress Parties request an adjournment of the pre-motion conference and extension of the deadline to submit pre-motion letters such that the Cypress Parties are afforded time to receive and review documents produced by GT. Separately, the Cypress Parties request an adjournment of the pre-motion conference and extension of the deadline to submit pre-motion letters due to a recent death in the family of the Cypress Parties’ lead counsel, Ross Pearlson. Because of this personal matter, Mr. Pearlson was out of the office from September 7, 2023, through September 11, 2023. The Cypress Parties notified the counsel for all parties of both above-mentioned issues via e-mail on September 8, 2023 and counsel consented to the proposed two-week adjournment of both the pre-motion conference and deadline for submission of any pre-motion letter given the circumstances.

As is set forth in detail above, the Cypress Parties have, and continue to, attempt to discharge their obligations with respect to both fact and expert discovery in good faith and to the best of their abilities. However, the Cypress Parties believe a short extension of expert discovery and a brief adjournment of the pre-motion conference and pre-motion submission deadline are warranted for the reasons outlined above. For that reason, the Cypress Parties, with the consent of all parties, request the following new deadlines: (1) October 4, 2023, as the deadline by which expert discovery must be complete; (2) September 27, 2023 as the deadline by which pre-motion letters regarding dispositive motions are to be filed; and (3) October 11, 2023, as a new date to hold the pre-motion conference before Your Honor. We thank the Court in advance for its consideration.

Respectfully submitted,

/s/ A. Ross Pearlson

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